

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 4702 of 2005

Between:

A.Mallesham, E.250634, Conductor Sangareddy Depot,
S/o.Ballaiah, R/o.Sangareddy, Meak District.

..... PETITIONER

AND

- 1 The APSRTC rep. by its Regional Manager Medak Region at Medak.
- 2 The APSRTC rep. by its Depot Manager SangareddyMedak at Medak.
- 3 The APSRTC rep by its Depot Manager Zaheerabad, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action

of the respondents herein in imposing the punishment of
deferment of annual increment for a period of 1 year with cumulative effect without holding any departmental enquiry vide Proc.No.E1/1(35)/79-MDK Dt.30.11.1991, as illegal, unjust contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the petitioner by adding the deferred increment w.e.f 30.11.1991 and to pay the arrears forthwith.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court, at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge sheet on 30-05-1990 on the allegation of some cash and ticket irregularities and after receiving the explanation of the petitioner, the final orders were passed on 30-11-1991 imposing the penalty of withholding of one incremental stage for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of one year with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order under impugned is illegal and it is liable to be set aside. Later the petitioner filed an appeal before the conciliation authority but the same was not pressed by him while it was pending.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**¹ wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 14 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside in view of the judgment of the Supreme Court in Kulwant Singh Gill (1 supra), on account of long lapse of time in filing the writ petition, I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for one year without cumulative effect. But, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been

imposed penalty of reduction of one annual increment for one year without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No costs.

March 10, 2005

Kvr

To

- 1 The Regional Manager, APSRTC, Medak Region at Medak.
- 2 The Depot Manager, APSRTC, SangareddyMedak at Medak.
- 3 The Depot Manager, APSRTC, Zaheerabad, Medak District.

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